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20 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
21 **IN AND FOR THE COUNTY OF PIMA**

22 **DEBRA ARRETT and SHIRLEY**
23 **LAMONNA,**

24 Plaintiffs,

25 vs.

26 **JULIE K. BOWER, Oro Valley Town**
27 **Clerk,**

28 Defendant.

29 **CASE NO. C20150346**

30 **AFFIDAVIT OF JULIE BOWER IN**
31 **SUPPORT OF MOTION TO DISMISS**

32 **(Assigned to the Honorable Gus Aragon)**

33 State of Arizona)
34) ss
35 County of Pima)

36 Julie K. Bower, Town Clerk of the Town of Oro Valley, solemnly swears or affirms the
37 following:

- 38 1. I am Town Clerk for the Town of Oro Valley.
39 2. I have held this position since January 2011, and prior to that was City Clerk of

1 Littleton, Colorado for approximately 13 years.

2 3. While a Clerk in Arizona, I have issued approximately five (5) petition serial numbers
3 for referenda, initiatives and recalls and I have reviewed two (2) returned petitions to ascertain
4 whether they have complied with the requirements of Arizona law.

5 **Initiating the First Petition**

6 4. On or about December 9, 2014, Shirley Lamonna, a plaintiff in this case, sent me an
7 email to inquire about the process for applying for a petition to bring a referendum to challenge a
8 resolution by the Common Council of the Town of Oro Valley.

9 5. I responded to her that day. In that email I provided Ms. Lamonna with a link to the
10 Arizona Secretary of State's handbook concerning Initiatives, Referendum, and Recall (the
11 "Handbook"). A true and correct copy of that email is attached as Exhibit A.

12 6. The Handbook refers to the petition serial numbers in connection with referendum and
13 initiative petitions on no fewer than five separate pages: 4, 8, 10, 11, and 14, with page 14
14 specifically noting that "[s]heets that do not bear the correct petition serial number in the lower right-
15 hand corner of each side of the sheet" will be disqualified. A true and correct copy of the Handbook
16 is attached as Exhibit B.

17 7. I followed up with more information for Ms. Lamonna on December 10. This email
18 specifically set forth the statutes and constitutional provisions that govern the referendum petition
19 process, including A.R.S. § 19-111. A true and correct copy of this email is attached as Exhibit C.

20 8. On December 14, 2014, Ms. Lamonna again sent me an email asking additional
21 questions about the referendum process. Although I responded to the email on December 16, I noted
22 "I am not allowed to give you legal advice" and "[y]ou may wish to see your own legal counsel." A
23 true and correct copy of that email correspondence is attached as Exhibit D.

24 9. On December 17, 2014, the Common Council passed Resolution 14-66 to purchase
25 approximately 324 acres of land from El Conquistador Country Club that includes a restaurant, 31

1 tennis courts, 45 holes of golf, two swimming pools, and a 31,475 square-foot building for conversion
2 into a community and recreation center. (R)14-66 was signed by the mayor and Tobin Sidles, Legal
3 Services Director, and by me as Clerk. It was available on December 18, 2014. A true and correct
4 copy of (R)14-66 is attached as Exhibit E.

5 **Petition Serial Number OVREF 14-01**

6 10. On December 18, 2014, Ms. Lamonna filed an application for a referendum petition
7 serial number to bring a referendum to challenge (R)14-66. The referendum petition was assigned
8 serial number OVREF 14-01. The first paragraph of the application stated that Ms. Lamonna “makes
9 the application for the issuance of an official serial number to be printed in the lower right-hand
10 corner of each side of each signature sheet of such petition.” When I provided Ms. Lamonna with a
11 copy of the completed application for a referendum petition serial number, I also advised Ms.
12 Lamonna that the petition serial number must appear on the petition. A true and correct copy of that
13 application, indicating the petition serial number, is attached as Exhibit F.

14 11. Deputy Town Clerk Michael Standish made the copy of the application for a
15 referendum petition serial number that is Exhibit F and was present when I advised Ms. Lamonna that
16 the petition serial number was required to be on the petition.

17 12. On December 19, Ms. Lamonna again emailed me for instruction on the petition and I
18 again suggested she speak with her own legal counsel. A true and correct copy of this email is
19 attached as Exhibit G.

20 13. On January 15, 2015, Ms. Lamonna returned approximately 249 petition sheets. She
21 completed an initial receipt noting the number of sheets and approximate number of signatures
22 gathered. A true and correct copy of that receipt, bearing both my signature and Ms. Lamonna’s
23 signature, is attached as Exhibit H.

24 14. When she returned the petition sheets, Ms. Lamonna also signed a legal verification
25 indicating that she did not rely on Town staff for legal advice in preparing the petition, that she was

1 advised to consult with private legal counsel prior to preparing the petitions, and that she understood
2 the petitions “must be strictly construed under Arizona case law for any flaws, which may result in
3 such petitions or signatures being disallowed.” A true and correct copy of this verification is attached
4 as Exhibit I.

5 15. While completing the portion of the initial receipt that asked for the petition serial
6 number, Ms. Lamonna asked me to confirm that the number was (R)14-66. I informed her that
7 (R)14-66 was the resolution number and that the petition serial number was OVREF 14-01. Ms.
8 Lamonna asked to look at one of the petition pages she had just filed. The petition page she reviewed
9 contained the resolution number instead of the petition serial number in the lower right-hand corner.
10 A true and correct copy of all returned pages of the petition corresponding to OVREF 14-01 are
11 attached as Exhibit J.

12 16. On January 20, after reviewing each petition sheet for compliance with A.R.S. § 19-
13 121.01, I issued a referendum receipt for the petition OVREF 14-01 turned in by Ms. Lamonna. The
14 petition was rejected because none of the petition sheets contained the petition serial number. In
15 addition, the petition sheets contained the following errors, which I noted on the receipt: sheets were
16 not attached to a copy of the title and text of the measure; circulator’s affidavits were not completed
17 or signed on some sheets; the notary signature was missing, the notary commission expired or the
18 notary seal was not affixed, the notary or circulator signatures are dated earlier than the elector
19 signatures, and the circulator petitions fail to indicate whether the circulator is paid or volunteer. A
20 true and correct copy of the receipt is attached as Exhibit K.

21 17. Because the petition failed to comply with the requirements of Arizona law, I did not
22 transmit the petition for further review or consideration.

23 **Petition Serial Number OVREF 15-01**

24 18. On January 16, 2015, Debra Arrett applied for a referendum petition serial number,
25 likewise seeking to challenge (R)14-66. This second referendum petition was issued serial number

1 OVREF 15-01. The first paragraph of the application stated that Ms. Arrett “makes the application
2 for the issuance of an official serial number to be printed in the lower right-hand corner of each side
3 of each signature sheet of such petition.” A true and correct copy of that application is attached as
4 Exhibit L.

5 19. I had email correspondence with Ms. Arrett about the referendum petition process as
6 well, and true and correct copies of those emails are attached as Exhibit M.

7 20. Just before 5:00 p.m. on January 16, Ms. Arrett submitted her petitions, but had only
8 approximately 1,070 signatures, which was fewer than the required 1,148 signatures for the petition
9 to succeed in bringing a referendum. Ms. Arrett completed and signed a receipt for the returned
10 petitions, a true and correct copy of which is attached hereto as Exhibit N.

11 21. When she returned the petition sheets, Ms. Arrett also signed a legal verification
12 indicating that she did not rely on Town staff for legal advice in preparing the petition, that she was
13 advised to consult with private legal counsel prior to preparing the petitions, and that she understood
14 the petitions “must be strictly construed under Arizona case law for any flaws, which may result in
15 such petitions or signatures being disallowed.” A true and correct copy of this verification is attached
16 as Exhibit O.

17 22. On January 20, I issued a referendum receipt for the petition OVREF 15-01 turned in
18 by Ms. Arrett. Although there were not enough signatures, I reviewed the petition sheets and
19 determined that they were deficient for a number of the same deficiencies as had been in OVREF 15-
20 01. The deficiencies in the second petition are set forth in the receipt, which is attached as Exhibit P.

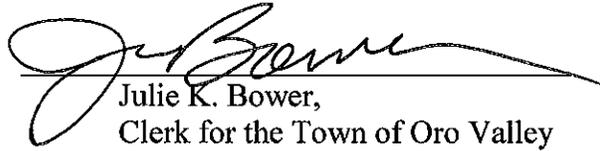
21 23. Because the petition failed to comply with the requirements of Arizona law, I did not
22 transmit the petition for further review or consideration.

23 **Consolidated Election Deadlines**

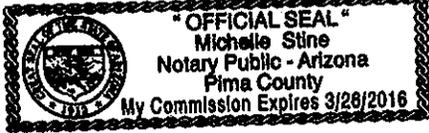
24 24. The Town of Oro Valley has an agreement with Pima County which requires the
25 Town to transmit any matter for inclusion on a ballot at least 120 days in advance. The next

1 consolidated election date is May 19. The 120 day deadline for that election was January 20, 2015.
2 April 27 is the last day to submit an item for inclusion on the subsequent consolidated election in
3 August.

4 DATED 2/2/15

5
6 
7 Julie K. Bower,
8 Clerk for the Town of Oro Valley

9 Subscribed and sworn before me this 2nd day of February, 2015 by Julie K. Bower,
10 Town Clerk of the Town of Oro Valley.



12 
13 Notary Public

14 My commission expires: 03-26-2014